



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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BZA Staff Report

To: Board of Zoning Appeals Members

From: Alex Getchell, Senior Planner I

Date: November 30, 2016

Re: Cases ZB 2016-16 (V) | Convenience Mart | 125 N. Morton Street

REQUESTS:

Case ZB 2016-16 (V)...Convenience Mart, 125 N. Morton Street. A request for development standards variances from the City of Franklin Zoning Ordinance:

- (1.) Article 3, Chapter 18, Primary Structure Front Setback 50 ft. (29.2 ft. requested)
- (2.) Article 3, Chapter 18, Primary Structure Side Setback 15 ft. (14.7 ft. North; 13.8 ft. East)
- (3.) Article 3, Chapter 18, Accessory Structure Front Setback 50 ft. (25 ft. requested)
- (4.) Article 7, Chapter 3, Accessory Structure Location (Dumpster Enclosure in front yard)
- (5.) Article 7, Chapter 3, Accessory Structure Side Setback 5 ft. (Dumpster 0.9 ft. requested)
- (6.) Article 5, Chapter 4, Architectural Standards (Façade Walls - Display Windows)
- (7.) Article 5, Chapter 4, Pedestrian Walkways (Landscaping along walkways connecting to sidewalks)
- (8.) Article 5, Chapter 4, Pedestrian Walkways (Landscaping separating walkway from facade)

in the MXC: Mixed-use Community Center Zoning District and GW-OL: Gateway Overlay District. The subject property is the former Swifty gas station on the corner of U.S. 31/Morton Street and Madison Street, with a common address of 125 N. Morton Street.

PURPOSE OF STANDARD:

The “MXC”, Mixed Use: Community Center zoning district is intended to provide locations for a variety of small-to-mid-sized businesses and institutional facilities that serve the entire Franklin-area community. This district should be used alone and in combination with other zoning districts to create areas for community shopping, entertainment, services, and public gatherings.

The intent of the Gateway Overlay (GW-OL) district is to require development at the City’s entrances that is aesthetically consistent, responsive to development pressures, and proportional to the area’s traffic management issues.

CONSIDERATIONS:

Project Background

1. Hamilton Designs, LLC (Petitioner) submitted for Site Development Plan Review [PC 2016-18 (SPR)] for a complete remodel and expansion, to include 939 sq. ft. of retail space, at the former Swifty gas station at 125 N. Morton Street.
2. See Petitioner’s Exhibits [[Exhibit A](#): Dimensioned Site Plan; [Exhibit B](#): Property Boundary Alignment; [Exhibit C](#): Floor Plan; [Exhibit D](#): Building Elevation Plan; [Exhibit E](#): Petitioner’s Finding of Facts].

Lot Standards | Primary Structure Setbacks

3. According to Article 3, Chapter 18, Mixed-use, Community Center Lot Standards, a minimum FRONT yard setback of 50 feet must be maintained on properties adjacent to an “Arterial” street; US 31 / N. Morton St. is classified as a “Principal Arterial” street on the 2013 Comprehensive Plan Transportation Functional Classification Map.
4. Variance (1.): *Petitioner is proposing to provide 29.2’ of front yard setback between the East right-of-way line of US 31 / N. Morton Street and the proposed building expansion on the north end of the facility.*
5. According to Article 3, Chapter 18, Mixed-use, Community Center Lot Standards, a minimum SIDE yard setback of 15 feet must be provided. Since the subject property is a corner lot, the area between the building and both the North and East property lines are considered “side yards.”
6. Variance (2.): *Petitioner is proposing to provide 14.7’ of side yard setback, between the proposed building expansion and the North property line / alley. Petitioner is also proposing to provide 13.8’ of side yard setback, between the proposed newly brick-wrapped building and the East property line. The brick-wrap around the legal nonconforming building increases the nonconformity, by further reducing the side (East) setback, albeit only the width of a brick (approx. 4”).*

Accessory Structure Standards | Dumpster Enclosure

7. According to Article 3, Chapter 18, Mixed-use, Community Center Lot Standards, a minimum FRONT yard setback of 50 feet must be maintained on properties adjacent to an “Arterial” street; US 31 / N. Morton St. is classified as a “Principal Arterial” street on the 2013 Comprehensive Plan Transportation Functional Classification Map.
8. Variance (3.): *Petitioner is proposing to provide 25’ of front yard setback, between the East right-of-way line of US 31 / N. Morton Street and a new dumpster enclosure on the north end of the building.*
9. According to Article 7, Chapter 3, Accessory Structure Location: No accessory structure shall be permitted in any front yard, or within the required side and rear yard setbacks specified by the Permitted Accessory Structures table.
10. Variance (4.): *Petitioner is proposing to locate a new dumpster enclosure **within the front yard** along US 31 / N. Morton Street. The “front setback” differs from the “front yard”, in that the “setback” is the required minimum distance a structure can be placed from the front property line, and the “yard” is the physical area between the foundation of the primary structure and the front property line.*
11. According to Article 7, Chapter 3, Permitted Accessory Structures Table, accessory structures related to the primary use are required to have a minimum side & rear yard setback of 15’.
12. Variance (5.): *Petitioner is proposing to locate a new dumpster enclosure at the North end of the building expansion, as close as 0.9’ from the North (side) property line.*

Gateway Overlay District | Architectural Standards

13. According to Article 5, Chapter 4 (Architectural Standards), Display Windows: All commercial building façade walls shall have display windows, faux windows, or decorative windows for no less than 60% of the façade wall’s horizontal length along all pedestrian walkways.
14. Variance (6.): *Petitioner is proposing to provide approximately 53% display windows on the West façade, and 0% display windows on the South façade. See Petitioner’s Building Elevations [Exhibit D].*

Gateway Overlay District | Pedestrian Walkways

15. According to Article 5, Chapter 4 of the City of Franklin Zoning Ordinance:
Sidewalks & Pedestrian Walkways: Pedestrian walkways and sidewalks shall be provided on each lot in order to promote pedestrian access and reduce vehicle traffic impacts. Sidewalks and pedestrian walkways shall meet the following requirements.

B. Pedestrian Walkways: Pedestrian walkways shall be provided from the sidewalks to the main customer entrance of the structures on each lot and along the full length of any facade of a building that includes a customer entrance or abuts a parking area.

- i. Walkways connecting the structure entries with the sidewalks shall be concrete, and a minimum of 5 feet in width. They shall be bordered on each side by a planting area that is a minimum 2 feet in width. The planting areas on each side of the sidewalk shall each include flowers, shrubs, and trees for a minimum of 50% of their length. The remainder shall be planted with grass.
 - iv. Walkways along the facades of the building shall be concrete, shall be a minimum of 5 feet in width, and shall be separated from the building by a landscape area that is a minimum of 5 feet in width. The landscape area shall include benches and seating areas, and be planted with flowers, trees, and shrubs for a minimum of 50% of its length.
16. Variance (7.): *Petitioner is proposing to provide a concrete walkway, 5 feet in width, connecting the structure entry with the sidewalk; however, petitioner is requesting relief from "i." above, to not be required to provide the 2 feet wide landscaping on either side of the walkway.*
17. Variance (8.): *Petitioner is proposing to provide a concrete walkway, 5 feet in width, along the South and West façades of the building; however, petitioner is requesting relief from standard "iv" above, to not be required to provide 5 feet wide landscaping and separation between the walkway and the building. Petitioner is proposing to locate the walkway immediately adjacent to the building.*

Comprehensive Plan & Zoning Ordinance

18. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Community Activity Center. "Community activity centers area intended as areas of mixed land uses that provide gathering places and goods and services for the entire community. Community activity centers may include churches, schools, community parks, grocery stores, gas stations, shopping centers, offices, banks and restaurants. Community activity centers may also include residences located on the upper floors of otherwise commercial buildings. Community activity centers are generally located along major streets and at prominent intersections where they are readily accessible by people from throughout the community."
19. The definition of a practical difficulty, according to the 2004 City of Franklin Zoning Ordinance is: A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Developmental Standards to improve his/her site in practical manner. For instance, a person may request a variance from a side yard setback due to a large tree that is blocking the only location that would meet the Development Standards for a new garage location.
20. According to Article 2.5: A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.

Surrounding Zoning:

North:	MXC: Mixed-use, Community Center GW-OL: Gateway Overlay
South:	MXC: Mixed-use, Community Center GW-OL: Gateway Overlay
East:	MXC: Mixed-use, Community Center GW-OL: Gateway Overlay
West:	MXC: Mixed-use, Community Center GW-OL: Gateway Overlay

Surrounding Land Use:

North:	Family Video Marco's Pizza
South:	Indiana Farm Bureau Insurance
East:	Multi-family Residential
West:	Bob's 31 Auto Sales Old Town Car Care, Inc.

CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCES:

(The petitioner will need to address the Criteria for Decisions in their presentation**)**

In taking action on all special exception and variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

- (1.) Article 3, Chapter 18, Primary Structure Front Setback 50 ft. (29.2 ft. requested)
- (2.) Article 3, Chapter 18, Primary Structure Side Setback 15 ft. (14.7 ft. North; 13.8 ft. East)
- (3.) Article 3, Chapter 18, Accessory Structure Front Setback 50 ft. (25 ft. requested)
- (4.) Article 7, Chapter 3, Accessory Structure Location (Dumpster Enclosure in front yard)
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DECISION CRITERIA – DEVELOPMENT STANDARDS VARIANCES

- 1. General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.***

Staff Finding:

Staff finds the approval of the proposed variances will not be injurious to the public health, safety, morals, or general welfare of the community. Staff finds no evidence that any of the variances will have any adverse effect on the general welfare of the community. Variances (1.), (3.), and (4.) relate to the building expansion and new dumpster enclosure encroaching into the front setback; however, both the expansion and dumpster enclosure will still be located farther from US 31 / N. Morton Street than the existing fuel station canopy and fuel pumps. The proposed additional encroachment into the front setback will not result in injury to the general welfare in any way. Additionally, staff finds variance request (2.), for the primary structure to encroach into the side setback on the North and East, will not be injurious to the public health, safety, or general welfare, as the addition of the brick-wrap around the entire building, to meet Gateway Overlay Architectural standards, results in only a brick's-width (approximately 4 inches) total encroachment on the North, and a brick's-width *additional* encroachment on the East.

Staff further finds the proposed location of the dumpster enclosure to be the best balance between petitioner's needs for convenient and accessible trash disposal and the City's Gateway Overlay District and other Zoning Ordinance standards; therefore, staff finds the dumpster location will have the least impact on the overall health and safety of the general welfare. Staff finds the proposed building design, including display windows [Variance (6.)] will not be injurious to the general welfare, as the design, albeit deficient in the width of display windows, meets the intent of the Gateway Overlay. Staff finds variances (7.) and (8.), relating to the required landscaping for walkways, will not be injurious to the public health, safety, and general welfare, as the lack of additional landscaping allows the petitioner to design a safer parking lot layout and pedestrian route, on an already very tight commercial lot.

- 2. Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.***

Staff Finding:

Staff finds no evidence that approval of any of the variances would affect any of the adjacent properties in a substantially adverse manner. Variances relating to setbacks are those which are generally most likely to have an adverse effect on adjacent properties; however, in this case, staff finds that none of the setback variances will affect any adjacent property or use in an adverse manner. The closest neighboring property, multi-family property to the East, will only see the new convenience store building come closer to their property in the amount of a brick-wrap, approximately 4 inches, being applied to the building.

3. ***Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.***

Staff Finding:

The strict application of the ordinance will result in practical difficulties for each variance requested, as the project is a redevelopment of a small business property, and meeting all of the current Zoning Ordinance standards is not practical. Moreover, since the petitioner is leaving the site layout mostly unchanged, except for the building addition and new enclosure for the dumpster, and since they are utilizing existing site features as much as possible, there are practical difficulties in the strict application of the ordinance. Petitioner has made concessions in order to provide adequate pedestrian walkways and in order to provide all required parking spaces. Therefore, staff finds the strict application of the ordinance will result in practical difficulties in the use of the property.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES

Based on the written findings above, staff recommends **approval** with the following conditions:

- a. Site Development Plan approval required prior to construction.
- b. Building exterior shall match the elevations submitted [Exhibit D] with this request.